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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/538,759	06/10/2005	Martin Sohn	272996US0PCT	5562
22850 7590 11/20/2008 OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314				
EXAMINER				
DOERFLER, WILLIAM CHARLES				
ART UNIT		PAPER NUMBER		
3744				
NOTIFICATION DATE		DELIVERY MODE		
11/20/2008		ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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# Office Action Summary

**Application No.**

10/538,759

**Applicant(s)**

SOHN ET AL.

**Examiner**

William C. Doerrler

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 August 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12 and 15-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5, 6, 10-12, 15 and 17 is/are rejected.
- 7) ☒ Claim(s) 4, 7-9, 16 and 18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Priority*

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claim 1-3, 5, 6, 10-12, 15 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hieserman et al (2,764,607) in view of Hatfield et al (4,278,788). Hieserman et al discloses applicants' basic inventive concept, a method for separating hydrogen chloride and phosgene which condenses phosgene in condensers and uses a stripping column to use a solvent from the process to separate the hydrogen chloride

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which leaves the top of the column and returning the solvent and phosgene to the reactor (example I in column 2 states that a stream of phosgene and hydrogen chloride leave the top of the condenser -the reflux condenser is also mentioned in line 25 of column 1- where a portion of the phosgene has been condensed and a solvent is used to remove more of the phosgene, substantially as claimed with the exception of using a solvent to remove the final traces of phosgene from the overhead of the absorption column (Hieserman et al state that a caustic scrubber is used for this but give no details). Hatfield et al show in line 43 of column 5 that caustic scrubbers using a solvent are known in the art. It would have been obvious to one of ordinary skill in the art at the time of applicants' invention from the teaching of Hatfield to modify the separation system of Hieserman by using a caustic scrubber which uses a solvent to provide efficient separation, which enables the regeneration of the solvent in a separate process container, enabling more constant separation from the same separator. In regard to claims 2,3 and 6, the temperature and pressure of the separation vessels are seen as matters of design choice for an ordinary practitioner in the art which would have been considered obvious to attempt to maximize the separation for a given energy input. In regard to claim 10, it is noted that chlorobenzene is the preferred solvent in line 56 of column 1 of Hieserman et al. In regard to claim 15, the compression of a product gas is seen as obvious to an ordinary practitioner in the art to provide a product gas at a pressure which is more economically stored, or to provide a gas at the pressure desired by a consumer.

***Allowable Subject Matter***

Claims 4,7-9,16 and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

Applicant's arguments with respect to claims 1-3,5,6,10-12,15 and 17 have been considered but are moot in view of the new ground(s) of rejection. Applicant states that Hieserman's absorption column is fundamentally different from the claimed distillation column. It is unclear where these differences are claimed. Claim 1 calls for "distillation or stripping in a column". Hieserman shows stripping in a column, so this limitation is met. Distillation is only presented in the alternative, so a distillation column is never required to meet the structure of the claim. If applicant were to amend the claim to positively recite the distillation column, the Michelet reference will be reconsidered. Hatfield is relied upon to show that wet caustic scrubbers are known and thus would have been obvious to an ordinary practitioner in the art desiring to build the caustic scrubber mentioned in Hieserman et al.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William Doerrier whose telephone number is (571) 272-4807. The examiner can normally be reached on Monday-Friday 6:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl Tyler can be reached on (571) 272-4834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

William C Doerler  
Primary Examiner  
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WCD

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